IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 2ND FEBRUARY 2007 / 13TH MAGHA 1928

WP(C).No. 10610 of 2006(K)

PETITIONER:

M.K.JANARDHANAN, S/O.ACHUTHAN NAIR,
BHAVANA, KUNNATHUPALAM, OLAVANNA AMSOM,
IRINGALLOOR DESOM.

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENTS:

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1. SUB INSPECTOR OF POLICE,
NALLALAM POLICE STATION.

2. CITY POLICE COMMISSIONER,
KOZHIKODE.

3. DIRECTOR GENERAL OF POLICE,
TRIVANDRUM.

4. STATE OF KERALA, REPRESENTED
BY ITS HOME SECRETARY, TRIVANDRUM.

BY D.G.P. SRI. P.G. THAMBI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXTS:

EXT.P1 PHOTOCOPY OF NEWS ITEM IN DESHABHIMANI DT.3.11.2005 MATHRUBHOOMI DAILY DT.9.11.05, MALAYALA MANORAMA DAILY DT.29.11.05, MADYAMAM DAILY DT.29.11.05, RASHTRA DEEPIKA DT.11.11.05, KERALA KOUMUDI DT. 29.11.05 DESHABHIMANI DAILY DT.29.11.05 AND MADYAMAM DAILY DT. 29.11.05. (ALL THE NEWS ITEMS ARE PRODUCED TOGETHER IN THREE PAGES)

EXT.P2 COPY OF THE FIR IN CRIME NO.243/05 BEFORE THE NALLALAM POLICE DT. 20.10.05,

EXT.P3 COPY OF FIR IN CRIME NO.17504 OF DO. DT.24.5.04.

EXT.P4 COPY OF FIR IN CRIME NO. 265/04 DO. DT. 16.8.04.

EXT.P5 COPY OF THE WOUND CERTIFICATE OF THE PETITIONER IN CRIME NO.243/05 DT. 19.10.05.

/TRUE COPY/

R. BASANT, J.

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W.P.C.No. 10610 of 2006 K

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Dated this the 2nd day of February, 2007

JUDGMENT

The grievance of the petitioner is that no proper investigation has been conducted into Crime Nos. 174 of 2004, 265 of 2004 and 243 of 2005, all registered at the Nallalam police station. It is not necessary to advert to all the details and the sequence of events, which had taken place. It is now submitted that final reports have already been filed on 29.12.06, 1.1.2007 and 27.11.2006 in all the three crimes. Cognizance has been taken by the learned Magistrate and the proceedings against the accused persons have been initiated.

2. As this Court was not satisfied that the directions issued in the matter had been properly carried out, the Commissioner of Police, to whom directions were issued, was directed to appear in person. He has filed a statement. After perusing the statement, the learned counsel for the petitioner now makes only one request. He submits that the statement of the petitioner has not been properly recorded by the Investigating Officer in these three crimes. The counsel submits that the petitioner has faith in the Commissioner of Police and will be satisfied if the Commissioner of Police would ensure that his statement is again recorded in the presence of the

Commissioner. The learned D.G.P. submits that the Commissioner has no objection to this course.

3. The Commissioner shall ensure that the petitioner's statement is recorded in his presence within two weeks from this date and if necessary further investigation under Section 173(8) Cr.P.C. shall be directed. Accepting this arrangement, I am satisfied that no further directions need be issued.

4. This writ petition is, in these circumstances, allowed in part to the extent indicated above.

(R. BASANT)
Judge

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R. BASANT, J.

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W.P.C.No. 10610 of 2006

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Dated this the 3rd day of January, 2007

O R D E R

I have perused the statement filed by the first respondent. It is now transparently evident that the second respondent has not complied with the direction issued by this Court. There was a specific direction on 25.7.2006 that the investigation must be got conducted by an Officer higher in rank than the Sub Inspector of Police. On 1.12.2006, as no statement was seen filed as directed on 25.7.06, specific directions were issued. Inspite of this, it is seen that, today when the matter came up for hearing, it is the first respondent who has filed the statement. The conduct of the 2nd respondent is far from satisfactory.

2. Issue notice to the second respondent as to why proceedings in contempt should not be initiated against him for not carrying out the directions of this court issued on 25.7.06 and 1.12.06. He shall also file a detailed statement showing all the steps taken by him after the order dt.25.7.06. He shall appear in person and offer explanation to this court on the next date of posting. Call on 15.1.07.

3. The Registry shall issue a copy of this order to the second respondent. The learned Prosecutor shall also communicate the order to the second respondent.

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(R. BASANT)
Judge

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R. BASANT, J.

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Crl.M.C.No. of 2006

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Dated this the 3rd day of January, 2007

O R D E R

(R. BASANT)
Judge

tm

R.BASANT, J.

W.P.C.NO.10610 OF 2006

Dated this the 1st day of December, 2006.

ORDER

I have perused the copy of the statement filed by the 2nd respondent. To say least, I am not at all satisfied that the directions issued by my learned Brother on 25.07.2006 have been seriously implemented and action taken. Only one of the 3 cases has been charge sheeted and investigation into the other

cases is still pending. The fact that the Commissioner of Police could not even get prompt instructions from his Circle Inspector of Police about the progress of the case speaks volumes for the effective supervision that he had undertaken in the investigation of the remaining two crimes, ie., Crime Nos.175 of 2004 & 265 of 2004.

2. Further time is granted till 02.01.2007 to the Commissioner of Police to ensure that effective, meaningful and efficient investigation is conducted into Crime Nos.175 of 2004 & 265 of 2004. On 03.01.2007, the matter shall be called again. The statement shall be filed on or before 02.01.2007 reporting to this Court the action taken and the progress achieved. If the statement is not filed, the Commissioner of Police shall appear in person and explain the action taken in the matter. The learned Public Prosecutor shall communicate the direction to the Commissioner of Police.

Hand over a copy of this to the learned counsel for both sides.

R.BASANT
JUDGE

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